



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In The Matter of:	:	<u>INFORMATION REQUIREMENT</u>
	:	
Perdue Farms Inc. (Milford)	:	Proceeding Under Section 308 of the
255 North Rehoboth Boulevard	:	Clean Water Act, 33 U.S.C. § 1318
Milford, DE 19963	:	
	:	
	:	
	:	
Respondents	:	
	:	

I. STATUTORY AUTHORITY

1. This Information Requirement is issued under the authority vested in the United States Environmental Protection Agency (EPA) by Section 308 of the Clean Water Act (CWA or Act), 33 U.S.C. § 1318. The Administrator of the EPA has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Water Protection Division of EPA Region III who in turn has delegated it to the Associate Director of the Office of National Pollutant Discharge Elimination System (NPDES) Permits and Enforcement. EPA hereby requires Respondents to provide information specified below.

II. STATUTORY AND REGULATORY BACKGROUND

2. EPA is authorized under Section 308 of the CWA, 33 U.S.C. § 1318, to require owners and operators of point sources to establish records and make such reports as may be necessary to carry out the purpose of the CWA, including but not limited to:
 - a. developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the CWA;
 - b. determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance;



- c. any requirement under Section 308 of the CWA; and,
 - d. carrying out Sections 305, 311, 404, and 504 of the CWA.
3. Failure to respond as directed to a CWA Section 308 requirement is punishable under the civil and criminal provisions of Section 309 of the CWA, which provide for the assessment of penalties, injunctive relief and imprisonment. Providing misleading or false information may subject you to civil and criminal sanctions. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.
 4. You may, if you desire, assert a business confidentiality claim covering all or part of the information required herein in the manner described in 40 C.F.R. Part 2, Subsection B. Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information required herein when it is received by EPA, it may be made available to the public by EPA without further notice. You may not withhold any information from EPA on the grounds that it is confidential business information. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. Chapter 35. *See* C.F.R. Section 1320.3(c).

III. INSTRUCTIONS

5. Provide all documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and indicate on each document produced in response to this Information Requirement, or in some other reasonable manner, the number of the question or subpart to which it corresponds.
6. Provide a separate narrative response for each question contained in this Information Requirement and for each subpart of each question. Precede each answer with the corresponding number of the question to which it responds.
7. Provide the name, address, telephone number, and occupation of each person providing responses to any questions contained in this Information Requirement, as well as each person consulted in the preparation of the response on behalf of Respondents to these demands for information.
8. For each question, identify each document consulted, examined, or referred to in the preparation of the response or that contains information responsive to the questions, and provide a true and correct copy of each document if not provided in response to another specific question.
9. If tabulation is required, provide the required information in tabular form in hard copy and also in tabular form in an electronic spreadsheet file of Microsoft Excel format.
10. To the extent information required herein was previously provided to EPA by the Respondents, there is no need to provide it again, but rather identify the information and the date it was previously provided.

11. If required information or documents are not known or are not available at the time of your response to this Information Requirement, but later become known or available, Respondents must supplement its response to EPA. Moreover, should Respondents find at any time after submission of its response that any portion is or becomes false, incomplete, or misrepresents the facts; Respondents must provide EPA with a corrected response as soon as possible.
12. All submissions provided pursuant to this Information Requirement shall be signed and dated by Respondents to include the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Signed _____
Title _____
Date _____

13. Submit a copy of your response to the following individual:

Brittany Smith
NPDES Enforcement Branch (3WP42)
Water Protection Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

14. If you have questions regarding this Information Requirement, you may contact Andrew Duchovnay, of the Office of Regional Counsel at (215) 814-2484 or Brittany Smith at (215) 814-5776.

IV. DEFINITIONS

15. All terms not identified herein shall have their ordinary meaning, unless such terms are defined in the CWA, 33 U.S.C. § 1326, or its implementing regulations found at 40 C.F.R. Parts 122 and 412, in which case the statutory or regulatory definition shall apply.
16. The terms “document” and “documents” shall mean any format that records, stores or presents information and includes writings, memoranda, records or information on any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hard copy, including any form or format of these types. If in computer format or memory, each such document shall be provided in a translated form useable and readable by EPA, with all necessary documentation and support. All documents in hard copy should also include: (a) a copy of each document which is not an exact duplicate of a

document which is provided; (b) each copy which has any writing, notation, or the like on it; (c) drafts; (d) attachments to or enclosures with any document; and (e) every other document referred to or incorporated into each document.

17. The term “owner or operator” means any person who owns, leases, operates, controls, or supervises the operation of a point source.
18. The term “identify” with respect to a natural person means to provide that person’s name, address, telephone number, title, and relationship to Respondents. The term “identify” with respect to a business entity means to provide that entity’s name, address and relationship to Respondents, and to provide the name, address, telephone number, and title of an individual who can provide information related to, and on behalf of the entity.
19. The term “Animal Feeding Operation” or “AFO” is a lot or facility where (a) animals have been, are, or will be stabled or confined and fed or maintained for 45 days or more in any twelve-month period and (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more AFOs under common ownership are considered to be a single AFO for purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.
20. The term “manure” includes manure and other materials commingling with manure (include but not limited to bedding, compost, and raw materials) and set aside for disposal.
21. The term “nutrient management plan” means any nutrient management plan, comprehensive nutrient management plan, animal waste management plan, manure management plan, conservation plan, or any other farm specific document that addresses the requirements set forth in 40 C.F.R. §122.42(e)(1).
22. The term “source” means any building, structure, facility, or installation on which pollutants are located.
23. The term “point source” means any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
24. The term “discharge” refers to the introduction of pollutants into designated Waters of the United States from any non-domestic source regulated under Section 402 of the Clean Water Act.

V. INFORMATION REQUIREMENT

AND NOW, this _____ day of _____, 2015, Respondents are hereby directed, pursuant to Section 308 of the Act, 33 U.S.C. § 1318, to provide the following information:

25. Identify any changes made to the Perdue Farms, Inc. poultry processing plant operations located at 255 North Rehoboth Blvd. Milford, DE 19963 since the DNREC inspection on September 27,

2012 that were implemented to reduce or eliminate the potential for discharges of manure, litter, or process wastewater to nearby water bodies. Changes include the implementation of physical best management practices, such as vegetated filter strips, as well as modified operational procedures, such as changes in litter handling and clean-up activities during or after live-haul activities or litter removal activities.

26. Provide a Facility map showing drainage pathways, main pollution sources, pervious areas, and impervious areas.
27. Provide a detailed description of all treatment processes and wastewater flows from the Facility. Include in your response:
 - a. A process flow diagram showing all wastewater streams, including process wastewater, domestic wastewater, non-contact cooling water, boiler blowdown, etc., with flow rates (average daily and daily maximum) for each stream that is ultimately discharged to the Mispillion River.
 - b. The flow diagram and map shall also indicate the location of any point(s) of sampling, including internal monitoring points, and point(s) of discharge to the River.
 - c. The type of discharge(s) (continuous, batch, etc.).
 - d. Chemicals or materials used in the treatment process.
 - e. A description of any wastewater that is hauled off site and/or disposal, the name of the hauler, the facility to which the wastewater is hauled for treatment and/or disposal, the volume of the wastewater hauled off site, and the frequency that wastewater is hauled off site.
28. Identify any locations where stormwater and/or wastewater can bypass the pretreatment facility and discharge via a storm drain. For each bypass location identified, describe the bypass configuration and criteria under which bypass may occur. Describe how bypasses are controlled, monitored, and documented.
29. Identify all instances of bypass at the locations identified in response to question 28. Describe the actions the Facility took in response to these instances. Provide all documentation of bypass occurrences since January 1, 2012, including:
 - a. The date of the occurrence;
 - b. The duration;
 - c. The cause;
 - d. The volume of wastewater bypassed;
 - e. A description of impact on Facility discharges; and

f. A detailed description of the methodology used to determine the derivation for the volume provided in response to Subparagraph d.

30. Effective immediately, upon receipt of this information requirement and continuing for one (1) year, conduct daily monitoring for flow from Outfall 001. When there is a flow present from Outfall 001, collect grab samples and monitor for all benchmark monitoring concentrations and effluent limitations (TSS, pH, BOD₅, COD, and Nitrate plus Nitrite Nitrogen) and flow. Monitoring results shall be submitted on a monthly basis on the 15th day of the month following the monitoring period.
31. For all operations at the Facility, provide a list of implemented or planned BMPs.
32. For the above BMPs, provide standard operating procedures for maintenance and monitoring for reduction and/or elimination of pollutants.
33. Provide copies of all sampling and/or monitoring reports, including water effluent monitoring data, which have been submitted to the permit issuing authority since January 1, 2012. After a response to this Information Request is provided to EPA, submit to EPA all sampling and/or monitoring reports at the same time they are submitted to the permit issuing authority until notified otherwise.
34. Describe Perdue's procedures for monitoring facility process wastewater and storm water runoff resulting from live-haul activities and all best management practices employed for reducing or eliminating such runoff resulting from manure or litter being exposed to precipitation events during and after hauling. Provide a copy of any and all documents and records of haul monitoring activities that support your response.
35. Provide, in tabulation format, all permit exceedances since January 1, 2012. Include in the tabulation the parameters that have been exceeded, the date and level of the exceedance, the corrective action taken or planned corrective action and whether a NOV was issued.
36. Provide copies of all correspondence between DNREC and Perdue (Milford) from January 1, 2012 to present regarding potential non-compliance at the Facility. In your response provide:
 - a. Copies of all Notification of Noncompliance letters;
 - b. Descriptions and documentation of any and all remedial measures taken and planned to correct compliance deficiencies identified by DNREC;
 - c. Costs of all remedial measures identified in response to subparagraph 36b and the basis for the cost determination.

VI. EFFECTIVE DATE

This INFORMATION REQUIREMENT is effective upon receipt. Information responsive to this Information Requirement shall be submitted to EPA within thirty (30) calendar days upon receipt of this Information Requirement.

Date: _____

David B. McGuigan, Ph.D.
Associate Director
Office of NPDES Compliance and Enforcement
Water Protection Division